

FPPC *Bulletin*



December 2005

Fair Political Practices Commission

Volume 31, No. 4

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Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. *FPPC staff members answer thousands of calls for telephone advice each month.*

FPPC Adopts Strategic Plan; Seeks New Funding for Workload

By Jon Matthews
FPPC Information Officer

With a 5-0 vote, the Fair Political Practices Commission on December 1 adopted a new strategic plan for the next four years.

As part of the planning process, commissioners reviewed the agency's successes during a period of dwindling resources as well as major goals for further improving services to the public and regulated community.

The goals of the strategic plan apply to the period of 2006-2010 and cover a broad range of the agency's mission. They include:

- ◆ Improving productivity and efficiency throughout the agency, including reducing the time needed to close enforcement complaints and respond to requests for written advice.
- ◆ Improving the recruitment and retention of employees throughout the agency.
- ◆ Securing sufficient funding, and a consistent funding source, to meet workload needs. This includes seeking a 50% increase in funding over the next four years.
- ◆ Seeking amendments to the Political Reform Act that aid compliance and workload management.

"The strategic planning process has given the Commission a valuable chance to assess the current status of our many services as well as formulate specific goals for improvement. It is clear that we need substantial new funds to adequately address our growing workload, and we are now increasingly optimistic that we will receive a positive response to our budget requests," said Commission Chair Liane Randolph.

(Continued on page 2)

**California
Fair Political
Practices Commission**

Commissioners

Liane Randolph, Chair
Philip Blair
Sheridan Downey III
A. Eugene Huguenin, Jr.
Ray Remy

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the 10-day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

...Strategic Plan Approved by Commission

(Continued from page 1)

Randolph stressed that any additional funding received by the FPPC will be distributed to all of the Commission major programs — including advice and education functions — in addition to the Enforcement Division.

"One of our major missions is education and advice, making sure that the regulated community has the knowledge and tools to meet the requirements of the Political Reform Act," said Randolph.

In a staff memorandum presented with the strategic plan at the December meeting, FPPC Executive Director Mark Krausse outlined some of the agency's accomplishments despite recent years' budget reductions.

"It is important to take this occasion to call attention to the great many things we get right, to the many improvements we've made during a period of dwindling resources and mounting workload and, above all, to the great contributions of our dedicated employees," Krausse wrote.

The Executive Director said accomplishments have included:

- ◆ Despite a 33 percent reduction in staffing in the Enforcement Division during the past five years, the number of cases closed with fines over that same period remained virtually level, and total fine levels for that period were consistently if moderately higher.
- ◆ Similarly, despite diminished staff resources, the Legal Division has held its average response time on advice letters virtually level while handling implementation of Proposition 34, a higher level of regulatory work in general, and a marked increase in litigation and requests for opinions.
- ◆ The public voice of the commission, the Technical Assistance Division, has consistently delivered on its mission of education, regularly receiving commendations from candidates, filing officers and other public officials—again, all in the context of fewer division staff having to respond to increasingly complex and numerous requests for assistance.

Copies of the strategic plan are available in the Commission section of the FPPC's website at:

<http://www.fppc.ca.gov/index.html?id=468>

The FPPC *Bulletin* is published by the Fair Political Practices Commission

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The *Bulletin* is published quarterly on the FPPC web site. To receive the *Bulletin* by e-mail, use our web site Mailing Lists tool at <http://www.fppc.ca.gov/index.html?id=408>

AB 1234 Enacts Local Ethics Training Requirement; FPPC to Consider New Regulation

On October 7, 2005, the Governor signed Assembly Bill 1234.

The legislation requires (among other things) that all local agencies that provide compensation, salary, or stipend to, or reimburse the expenses of, members of a legislative body must provide ethics training to local agency officials by January 1, 2007, and every two years thereafter. The term "legislative body" includes not only the governing body of a local agency, but also a commission, committee, board, or other body of a local agency, whether permanent or temporary, decision-making or advisory.

The legislation further provides that if an entity develops criteria for the ethics training, the Fair Political Practices Commission and the Attorney General's Office must be consulted regarding the proposed course content.

Please note that the enacted statute (Government Code section 53235) is not in the Political Reform Act. Therefore, other than the consultation requirement regard-

ing the training course, the Commission has no jurisdiction to interpret the new legislation.

The FPPC is noticing a new regulation setting forth the procedure for obtaining review of the local agency ethics training. The draft regulation, as amended after receipt of public comment, will be presented to the Commission at its January 20, 2006 Commission meeting. We encourage the public to comment on the proposed regulation in advance of, and at, the Commission meeting.

The FPPC has created a new page on our website with information on the proposed regulation. The page has links to the proposed regulatory language, the notice of rulemaking, and the text of Assembly Bill 1234. Here is the link to the page:

<http://www.fppc.ca.gov/index.html?id=466>

If you would like to receive periodic updates on the status of the implementation project, please e-mail your name, firm, address, phone number and e-mail address to jwallace@fppc.ca.gov.

Fair Political Practices Commission 2006 Commission Meeting Schedule

The Fair Political Practices Commission currently plans to meet on the following dates in 2006:

Friday, January 20
Thursday, February 16
Thursday, March 16
Thursday, April 13
Thursday, May 11
Thursday, June 8

Thursday, July 20
Thursday, September 7
Thursday, October 5
Thursday, November 2
Thursday, December 14

Meetings generally begin at 9:45 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento. But please check the FPPC website regularly as dates and times can change. The direct link to our agenda page is:

<http://www.fppc.ca.gov/index.html?id=329>



Legislative Update

The following bills related to the Political Reform Act or the Fair Political Practices Commission have been approved by the Legislature, signed by the Governor, and chaptered into law by the Secretary of State. Unless otherwise indicated, the provisions of these chaptered bills will take effect on January 1, 2006.

AB 1234 (Assemblymember Salinas) Chapter 700, Statutes of 2005 Local Agencies: Compensation and Ethics

As chaptered, this bill clarifies the rules pertaining to compensation of local government officials when they attend authorized meetings and conferences, and it requires local agencies to establish guidelines for reimbursing local officials for actual and necessary expenses incurred in the performance of official duties. Most pertinent to the Commission is that the bill requires ethics training for local government officials and selected employees of a local agency that provides such compensation or reimbursement. If a local agency develops curricula to satisfy the training requirements, the agency must consult with the Commission and the Attorney General regarding the sufficiency and accuracy of any proposed course content. Commission staff has added an item to the regulatory calendar to address the consultation requirement.

AB 1755 (Assembly Elections Committee) Chapter 200, Statutes of 2005 (Commission-sponsored Omnibus Bill)

This Commission-sponsored measure makes the following changes to the Political Reform Act:

1. Deletes reporting provisions relating to the now-obsolete March state primary.
2. Clarifies that a late contribution report or a late independent expenditure report is not required to be filed by a candidate or committee that has disclosed the late contribution or late independent expenditure pursuant to a specified electronic report.
3. Extends from 30- to 45-days the period during which a candidate may leave one office and assume another without having to file a new SEI.
4. Clarifies that a candidate for city treasurer is required to file a statement of economic interests with the city clerk and that a candidate for judge is required to file a statement of economic interests with the person with whom the candidate's declaration of candidacy is filed, instead of filing the statement with the clerk of the court.

SB 8 (Sen. Soto) Chapter 680, Statutes of 2005 Local Post-governmental Employment Restrictions

This bill extends to local elected officials, county chief administrative officers, city managers or administrators, and special district general managers or chief administrators the one-year post-governmental employment restrictions ("revolving door" ban) currently applicable to state public officials. It prohibits these local elected officials from lobbying the local government agency of which that official was a member for a period of one year after leaving office. It exempts from the prohibition individuals who are appearing or communicating on behalf of another local government or public agency of which the individual is a board member, officer, or employee. The provisions of SB 8 will take effect on July 1, 2006, imposing on the Commission an estimated annual cost increase of approximately \$168,000. A budget change proposal has been submitted to the Department of Finance seeking funding and positions to implement this legislation.

Enforcement Summaries

December Commission Meeting

Campaign Reporting Violations

In the Matter of No on Knight-No on Prop 22 and Cary Davidson, FPPC No. 02/170. Staff: Assistant Division Chief William L. Williams, Jr. Respondent No on Knight-No on Prop 22 was a committee primarily formed to defeat Proposition 22, the "Defense of Marriage Act," a state ballot measure being voted on in the March 7, 2000 primary election. Respondent Cary Davidson was the treasurer of Respondent Committee. Respondents No on Knight-No on Prop 22 and Davidson violated the Political Reform Act by failing to report sub-vendor information, in violation of Government Code sections 84211, subdivision (k)(6) and 84303 (5 counts); failing to accurately report campaign contributions and contributor information, in violation of Government Code section 84211, subdivision (f) (2 counts); failing to disclose the receipt of late contributions in properly filed late contribution reports, in violation of Government Code section 84203, subdivision (a) (14 counts); and failing to timely send out major donor notices, in violation of Government Code section 84105. (2 counts). \$35,000 fine.

Statement of Economic Interests Violations – SEI Fast Track Program

In the Matter of Harvey Ryan, FPPC No. 05-0538. Staff: Enforcement Political Reform Consultant Wayne Imberi. Harvey Ryan, a member of the Lake Elsinore Planning Commission, failed to timely file a combined assuming office, 2004 annual and leaving office statement of economic interests in violation of Government Code sections 87203. (1 count). \$100 fine.

In the matter of Jeffrey Sterman, FPPC No. 05-0467. Staff: Enforcement Political Reform

Consultant Wayne Imberi. Jeffrey Sterman, a member of the San Francisco Health Plan Governing Board, failed to timely file a 2004 annual statement of economic interests in violation of Government Code section 87300 (1 count). \$100 fine.

Major Donor – Streamlined Program

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entity has entered into a stipulation for failing to file a major donor campaign statement that was due during calendar year 2004, in violation of Government Code Section 84200:

- ♦ **In the Matter of A. William Allen, III, FPPC No. 05-0547.** A. William Allen, III of Newport Coast failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 (1 count). \$400 fine.
- ♦ **In the Matter of Robert D. Basham, FPPC No. 05-0549.** Robert D. Basham of Tampa, Florida failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 (1 count). \$400 fine.
- ♦ **In the Matter of The Kick Law Firm, APC, FPPC No. 05-0552.** The Kick Law Firm of Los Angeles failed to timely file a semi-annual campaign statement disclosing contributions totaling \$50,000.00 (1 count). \$900 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution re-

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ports in 2004, in violation of Government Code Section 84203:

- ◆ **In the Matter of Ace Parking Management, Inc., FPPC No. 05-0553.** Ace Parking Management, Inc. of San Diego failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Albertson's, Inc., FPPC No. 05-0554.** Albertson's Inc. of Boise, Idaho failed to timely disclose a late contribution totaling \$25,000.00 (1 count). \$3,500 fine.
- ◆ **In the Matter of Berman, DeValerio, Pease, Tabacco, Burt & Pucillo, FPPC No. 05-0556.** Berman, DeValerio, Pease, Tabacco, Burt & Pucillo of San Francisco failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Casey, Gerry, Reed & Schenk, FPPC No. 05-0557.** Casey, Gerry, Reed & Schenk of San Diego failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Ganong & Wyatt, LLP, FPPC No. 05-0558.** Ganong & Wyatt, LLP of Bakersfield failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Levin, Simes & Kaiser, LLP, FPPC No. 05-0563.** Levin, Simes & Kaiser, LLP of San Francisco failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Lexington Law Group, LLP, FPPC No. 05-0564.** Lexington Law Group, LLP of San Francisco failed to timely disclose late contributions totaling \$15,000.00 (2 counts). \$2,250 fine.
- ◆ **In the Matter of Milberg, Weiss, Bershad & Schulman, LLP, FPPC No. 05-0566.** Mil-

berg, Weiss, Bershad & Schulman, LLP of New York, New York failed to timely disclose a late contribution totaling \$50,000.00 (1 count). \$3,500 fine.

- ◆ **In the Matter of Paycom.net, LLC, FPPC No. 05-0570.** Paycom.net, LLC of Marina del Rey failed to timely disclose a late contribution totaling \$25,000.00 (1 count). \$3,500 fine.
- ◆ **In the Matter of Sierra Tel Communications Group, FPPC No. 05-0573.** Sierra Tel Communications Group of Oakhurst failed to timely disclose a late contribution totaling \$26,600.00 (1 count). \$3,500 fine.
- ◆ **In the Matter of Stars Behavioral Health Group, FPPC No. 05-0574.** Stars Behavioral Health Group of Oakland failed to timely disclose a late contribution totaling \$12,061.00 (1 count). \$1,809.15 fine.
- ◆ **In the Matter of Whatley Drake, LLC, FPPC No. 05-0578.** Whatley Drake, LLC of Birmingham, Alabama failed to timely disclose late contributions totaling \$10,000.00 (2 counts). \$1,500 fine.

November Commission Meeting

Campaign Reporting Violation

In the Matter of Prop38yes.com, School Vouchers, and Betty Presley, FPPC No. 03/050. Staff: Commission Counsel Natalie Bo-canegra. Respondent Prop38yes.com, School Vouchers was a recipient ballot measure committee primarily formed to support the qualification of Proposition 38 for the ballot and its passage in the 2000 general election. Respondent Betty Presley was treasurer of Respondent Committee. Respondents failed to report required information regarding expenditures totaling \$3,423,805 made to sub-vendors (12 counts) in violation of section 84303. \$24,000 fine.

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Major Donor – Streamlined Program

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following entity has entered into a stipulation for failing to file a major donor campaign statement that was due during calendar year 2004, in violation of Government Code Section 84200:

- ◆ **In the Matter of Fired Up, Inc., FPPC No. 05-0470.** Fired Up, Inc. of Austin, Texas, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 (1 count). \$400 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Staff: Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution reports in 2004, in violation of Government Code Section 84203:

- ◆ **In the Matter of Jay Snyder, FPPC No. 05-0550.** Jay Snyder of New York, New York, failed to timely disclose late contributions totaling \$15,000.00 (2 counts). \$2,250 fine.
- ◆ **In the Matter of Tracy Snyder, FPPC No. 05-0551.** Tracy Snyder of New York, New York, failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of American Civil Liberties Union of Northern California, FPPC No. 05-0555.** American Civil Liberties Union of Northern California located in San Francisco failed to timely disclose a late contribution totaling \$20,000.00 (1 count). \$3,000 fine.
- ◆ **In the Matter of Gillin, Jacobson, Ellis & Larsen, FPPC No. 05-0560.** Gillin, Jacobson, Ellis & Larsen of Orinda failed to timely

disclose a late contribution totaling \$15,000.00 (1 count). \$2,250 fine.

- ◆ **In the Matter of Long Beach Memorial Medical Center & Miller Children's Hospital, FPPC No. 05-0565.** Long Beach Memorial Medical Center & Miller Children's Hospital of Long Beach failed to timely disclose late contributions totaling \$90,000.00 (2 counts). \$7,000 fine.
- ◆ **In the Matter of Mitchell D. Kapor, FPPC No. 05-0567.** Mitchell D. Kapor of San Francisco failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Murray & Howard, LLP, FPPC No. 05-0568.** Murray & Howard of Oakland failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of U.S. Bancorp, FPPC No. 05-0575.** U.S. Bancorp of Minneapolis, Minnesota, failed to timely disclose a late contribution totaling \$10,000.00 (1 count). \$1,500 fine.
- ◆ **In the Matter of Robinson, Calcagnie & Robinson, Inc., FPPC No. 05-0572.** Robinson, Calcagnie & Robinson, Inc. of Newport Beach failed to timely disclose a late contribution totaling \$20,000.00 (1 count). \$3,000 fine.

October Commission Meeting

Campaign Money Laundering Violations

In the Matter of De Anza College, FPPC No. 02/363. Staff: Senior Commission Counsel Deanne Canar and Supervising Investigator Dennis Pellón. Respondent De Anza College is a community college located in Cupertino, and one of two colleges in the Foothill-De Anza Commu-

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nity College District. In November 1999, Respondent laundered a campaign contribution to a local ballot measure committee, by making a \$75,000 contribution to the Citizens for Foothill-De Anza, a Committee to Support Measure E, in the name of the De Anza Associated Student Body, instead of its own name, in violation of section 84301 of the Government Code (1 count). Respondent De Anza College also failed to file a major donor committee campaign statement, disclosing its campaign activity in 1999, in violation of section 84200, subdivision (b) of the Government Code (1 count). \$4,000 fine.

In the Matter of Terry Tognazzini and RR Tog, L.P., d.b.a. Red Roof Inns Southern California, FPPC No. 03/617. Staff: Senior Commission Counsel Deanne Canar and Investigator III Sandra Buckner. Respondent Tognazzini, who has franchise agreements with the Accor hotel group, owns and operates numerous hotel properties in Southern California. One of Respondent Tognazzini's companies is Respondent RR Tog, L.P., doing business as Red Roof Inns Southern California. In 2002, Respondents Terry Tognazzini and Red Roof Inns Southern California engaged in a pattern of campaign money laundering, by making campaign contributions totaling \$6,735 to local candidates and officials in the names of the employees of Respondent Red Roof Inns Southern California, instead of the company's own name, in violation of section 84301 of the Government Code (18 counts). \$68,000 fine.

Campaign Reporting Violations

In the Matter of Chris Norby, Norby for Supervisor, and Michael Di Costanzo, FPPC No. 02/432. Staff: Senior Commission Counsel Deanne Canar and Accounting Specialist William Marland. Respondent Chris Norby was a successful candidate for a seat on the Orange County Board of Supervisors in the March 5, 2002 election, having previously served for 18 years on the Fullerton City Council. Respondent Norby for Supervisor is the controlled committee of Respondent Norby, and Respondent Michael Di Costanzo was the treasurer of Respondent

Committee. Respondents failed to disclose occupation and employer information for 98 contributions of \$100 or more, in violation of section 84211, subdivision (f) of the Government Code (2 counts); and failed to return contributions totaling \$27,550 within 60 days of receipt for which they did not have occupation and employer information, in violation of section 85700 of the Government Code (2 counts). \$10,000 fine.

In the Matter of Stephen E. Benson, Committee to Elect Steve Benson Judge, and Eugene C. Hancock, FPPC No. 02/503. Staff: Senior Commission Counsel Deanne Canar. Respondent Stephen E. Benson was a successful candidate for Butte County Superior Court in the November 7, 2000 general election, having qualified for that election by receiving the second highest number of votes in the March 7, 2000 primary election. Respondent Committee to Elect Steve Benson Judge was the controlled committee of Respondent Benson, and Respondent Eugene C. Hancock was the treasurer of Respondent Committee. In 2000, Respondents failed to deposit a \$71,000 loan made to Respondent Benson to support his election to the Butte County Superior Court into the campaign bank account of Respondent Committee, in violation of section 85201, subdivision (c) of the Government Code (1 count); failed to disclose the \$71,000 loan on a pre-election campaign statement of Respondent Committee, in violation of sections 84211, subdivision (f), and 84216, subdivision (c) of the Government Code (1 count); and failed to disclose the true source of the outstanding \$71,000 loan on two separate campaign statements of Respondent Committee, in violation of sections 84211, subdivision (f), and 84216, subdivision (e) of the Government Code, and of section 84211, subdivision (g) of the Government Code (2 counts). \$7,000 fine.

In the Matter of Retired Saratoga Volunteer Firemen, Inc., FPPC No. 02/012. Staff: Commission Counsel Galena West and Supervising Investigator Dennis Pellón. Respondent Retired Saratoga Volunteer Firemen, Inc. is a non-profit corporation located in the City of Saratoga, which raises money for community and social activities. In 2000, during the first semi-annual

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campaign reporting period of January 1, 2000 through June 30, 2000, Respondent made a political contribution of \$20,000 to support the passage of a local ballot measure, and thereby qualified as a "major donor committee." During the second semi-annual campaign reporting period of July 1, 2000 through December 31, 2000, Respondent made an additional \$30,491 in political contributions. Respondent violated the Political Reform Act by failing to timely file two semi-annual campaign statements, in violation of section 84200, subdivision (b) of the Government Code (2 counts). \$2,800 fine.

Conflict of Interest and Statement of Economic Interests Violations

In the Matter of Eileen G. McDonald, FPPC No. 04/002. Staff: Assistant Division Chief William L. Williams, Jr. Respondent Eileen McDonald was a member of the Newark Unified School District Board of Trustees from 1992 to 2003. Respondent violated the Political Reform Act by making governmental decisions in which she had a financial interest, in violation of Government Code section 87100 (15 counts), and by failing to disclose a business entity as an investment interest and a source of income on annual statements of economic interests, in violation of Government Code section 87300 (2 counts). \$29,000 fine.

Statement of Economic Interests Violations

In the Matter of Sean MacNeil, FPPC No. 02/271. Staff: Assistant Division Chief William L. Williams, Jr. Respondent Sean MacNeil was employed as the Legislative Coordinator for then-Assemblywoman Patricia Wiggins in 2002. Respondent MacNeil violated the Political Reform Act by signing the verification for two statements of economic interests for which he was not the filer, in violation of section 81004, subdivision (a) of the Government Code (2 counts). \$4,000 fine.

Statement of Economic Interests Violations – SEI Fast Track Program

In the Matter of Therese Hankel, FPPC No. 05/433. Staff: Enforcement Political Reform Consultant Jeanette Turvill. Therese Hankel, a member of the City of Mammoth Lakes Planning Commission, failed to timely file a 2004 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$100 fine.

In the Matter of Andrew Whitman, FPPC No. 05/432. Staff: Enforcement Political Reform Consultant Jeanette Turvill. Andrew Whitman, a member of the City of Ojai Planning Commission, failed to timely file a 2004 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$100 fine.

In the Matter of Vivianne Wolinsky, FPPC No. 04/416. Staff: Enforcement Political Reform Consultant Jeanette Turvill. Vivianne Wolinsky, a licensing manager for the Lawrence Berkeley National Laboratory, failed to timely file a 2003 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$250 fine.

In the Matter of John Larse, FPPC NO. 04/640. Staff: Enforcement Political Reform Consultant Wayne Imberi. John Larse, a member of the California Strawberry Commission, failed to timely file a 2003 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$100 fine.

Major Donor – Streamlined Program

Failure to Timely File Major Donor Campaign Statements. Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during calendar year 2004, in violation of Government Code sections 84200 and/or 84605:

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- ♦ **In the Matter of John Garland Bowes, FPPC No. 05-0465.** John Garland Bowes of San Francisco failed to timely file a semi-annual campaign statement disclosing contributions totaling \$99,564.25 (1 count). \$1,395.64 fine.
- ♦ **In the Matter of Marlin & Saltzman, A.P.C., FPPC No. 05-0486.** Marlin & Saltzman, A.P.C. of Agoura Hills failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 (1 count). \$400 fine.
- ♦ **In the Matter of American Civil Liberties Union of Northern California, FPPC No. 05-0490.** American Civil Liberties Union of Northern California, located in San Francisco, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$41,289.30 (1 count). \$400 fine.
- ♦ **In the Matter of Golden Corral Corporation, FPPC No. 05-0491.** Golden Corral of Raleigh, North Carolina failed to timely file a semi-annual campaign statement disclosing contributions totaling \$10,000.00 (1 count). \$400 fine.

Late Contribution – Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Chief Investigator Sue Straine and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution reports in 2004, in violation of Government Code Section 84203:

- ♦ **In the Matter of Monterey County Republican Central Committee, FPPC No. 05-0012.** Monterey County Republican Central Committee of Salinas failed to timely disclose a late contribution totaling \$25,000 (1 count). \$3,500 fine.
- ♦ **In the Matter of Californians for Schwarzenegger, FPPC No. 05-0369.** Californians

for Schwarzenegger of Santa Monica failed to timely disclose late contributions totaling \$43,400.00 (14 counts). \$6,510 fine.

- ♦ **In the Matter of Arnold Schwarzenegger's Total Recall Committee, FPPC No. 05-0370.** Arnold Schwarzenegger's Total Recall Committee of Santa Monica failed to timely disclose late contributions totaling \$56,000.00 (3 counts). \$8,400 fine.
- ♦ **In the Matter of The First American Corporation, FPPC No. 05-0374.** The First American Corporation of Santa Ana failed to timely disclose a late contribution totaling \$50,000.00 (1 count). \$3,500 fine.
- ♦ **In the Matter of California State Association of Counties - Non Public Funds, FPPC No. 05-0377.** California State Association of Counties – Non Public Funds of Sacramento failed to timely disclose a late contribution totaling \$55,000.00 (1 count). \$3,500 fine.



FPPC
Toll-free Advice Line:
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The Clerks' Corner



The Annual Statement of Economic Interests Filing Season Is Almost Here!

See this issue's articles on this important subject:

- ◆ Page 11: Helpful hints and reminders / 2006-2007 Form 700 update
- ◆ Page 12: 2006 Form 700 due dates
- ◆ Page 13: Candidate Statements of Economic Interests
- ◆ Pages 14-15: Important 2006 dates to remember for the Form 700 and conflict codes

Helpful Hints and Reminders

By Tara Stock
FPPC Political Reform Consultant

As we gear up for the annual filing of the statements of economic interests, here are a few reminders and helpful hints:

- ◆ Provide code filers with the disclosure category portion of the conflict-of-interest code. The disclosure category describes "what" economic interests must be reported, the Form 700 describes "how" to report those economic interests.
- ◆ Date stamp each statement upon receipt in the "Official Use Only" section of the Cover Page.
- ◆ Annual statements that are postmarked by April 3, 2006, are considered timely filed. For statements that are postmarked on or after April 3, 2006, please include either the postmarked envelope or a copy of the postmarked envelope when you forward the statements to FPPC as evidence of timely filing.
- ◆ Newly elected and leaving officeholders must file assuming or leaving office statements, respectively, within 30 days of assuming or leaving. Officeholders who are re-elected are not required to file leaving and assuming office

statements. They continue to file annual statements.

- ◆ Filers who assumed office between October 1, 2005, and December 31, 2005, and filed assuming office statements are not required to file the 2005 annual statements. The next annual statement will be due on April 2, 2007, and will cover the day after their assuming office date through December 31, 2006.
- ◆ For statements that are to be forwarded to the Fair Political Practices Commission, remember to send those in within five days of the filing deadline.

2005/2006 Form 700 Update

The 2005/2006 Form 700 should be available on our website soon after January 1, 2006. Revisions to the form include the elimination of Schedule D (loans are now reported on Schedule C) and clarifying examples that explain reporting of investments. Schedule D is now used for reporting gifts, and Schedule E is now used for reporting travel payments.

Remember that we no longer mail hard copies of the form to agencies unless filing officers specifically request that we do so. Instead, we will be sending e-mail notifications to filing officers informing them when the form is available on our website.



Due Dates in 2006 for the Form 700

As a new year begins, so too begins a new filing season for Form 700s, the annual statements of economic interests (SEIs).

Due March 1, 2006:

For statements from the following filers, make a copy of the statement for your records, send one copy to the Secretary of State, and send the original to the Fair Political Practices Commission within five days of the deadline or receipt of a statement filed late.

- ◆ Governor
- ◆ Lieutenant Governor
- ◆ Attorney General
- ◆ Insurance Commissioner
- ◆ Controller
- ◆ Secretary of State
- ◆ Treasurer
- ◆ Superintendent of Public Instruction
- ◆ Members of the state Assembly
- ◆ Members of the state Senate
- ◆ Members of the state Board of Equalization

For statements from the following filers, keep a copy and send the original to the FPPC within five days of the deadline or receipt of a statement filed late:

- ◆ Judges and court commissioners
- ◆ Members of the Public Utilities Commission
- ◆ Members of the Energy Resources Conservation and Development Commission
- ◆ Members of the California Coastal Commission
- ◆ Elected members of the board of administration of the California Public Employees Retirement System.

Due April 1, 2006¹:

- ◆ County Supervisor
- ◆ District Attorney
- ◆ County Counsel

- ◆ County Treasurer
- ◆ County Chief Administrative Officer
- ◆ County Planning Commissioner
- ◆ Member of City Council
- ◆ Mayor
- ◆ City Manager
- ◆ City Attorney
- ◆ City Treasurer
- ◆ City Chief Administrative Officer
- ◆ City Planning Commissioner
- ◆ County and City Public Officials Who Manage Public Investments must also file by April 1; however, SEIs from these filers are not forwarded to FPPC

Designated Employees Covered under an Agency Conflict-of-Interest Code

To determine which employees, including consultants, must file statements of economic interests, refer to your agency's conflict-of-interest code. The code should list positions within your agency for which employees must complete SEIs. The conflict-of-interest code should also set out employees' filing obligations and the date that annual SEIs are due. If your agency adopted the model code in Regulation 18730 as your conflict-of-interest code, your filing deadline is April 1.

When you give a designated employee a Form 700 to complete, you must also provide the employee's disclosure category (from your agency's conflict-of-interest code). The code, not the form, determines what that employee must report and where to file. The majority of designated employee statements are not sent to the FPPC but are maintained at the agency instead.

¹Because April 1, 2006 falls on a Saturday, the filing deadline is extended to April 3, 2006.



Candidate Statements of Economic Interests

Many of you will be holding elections in 2006. All candidates (including incumbents) for offices specified in Government Code Section 87200 are required to file a Candidate Statement (Form 700) no later than the final filing date for the declaration of candidacy. The following elected offices are specified in Section 87200:

- ◆ Governor
- ◆ Lieutenant Governor
- ◆ Attorney General
- ◆ Insurance Commissioner
- ◆ State Controller
- ◆ Secretary of State
- ◆ State Treasurer
- ◆ Superintendent of Public Instruction
- ◆ Members of the State Assembly
- ◆ Members of the State Senate
- ◆ Members of the State Board of Equalization
- ◆ County Supervisor
- ◆ District Attorney
- ◆ County Counsel
- ◆ County Treasurer
- ◆ Mayor
- ◆ City Council Member
- ◆ City Attorney
- ◆ City Treasurer

Exception: If an incumbent files an Annual Statement within 60 days prior to the date the Candidate Statement is due, a Candidate Statement is not required. However, filing a Candidate Statement does not change the filing requirement for an Annual Statement. For those cities holding June 6, 2006, elections, the final filing date for the declaration of candidacy is March 10, 2006, in most cases. So, encourage your incumbents to file their Annual Statements early and they will be spared an additional filing requirement.

Example: Assembly Member Ramos, who is listed as a candidate on the June 6, 2006, ballot, files his Annual Statement on February 24, 2006. He is not required to file a Candidate Statement because his Annual Statement is filed within 60 days prior to the final filing date for the declaration of candidacy.

Example: Mayor O'Kelly, who is listed as a candidate on the June 6, 2006, ballot, files her Annual Statement on February 3, 2006. She is not required to file a Candidate Statement because her Annual Statement is filed within 60 days prior to the final filing date for the declaration of candidacy.

Example: Supervisor Jackson, who is listed as a candidate on the June 6, 2006, ballot, files his Candidate Statement on March 1, 2006. Because filing a Candidate Statement does not satisfy the requirement for filing an Annual Statement, he is still required to file an Annual Statement by April 1, 2006 (because April 1 falls on a Saturday, the filing deadline is extended to April 3). In this case, an Annual Statement would not be required if both the Candidate box and the Annual box were marked under the "Type of Statement" on the Cover Page.

Note: Candidates for positions not specified in Section 87200 (such as school board candidates) are not required to file Candidate Statements unless their agency's conflict-of-interest code includes such a requirement.

See important 2006 dates to remember on the next two pages

Important 2006 Dates to Remember for Statements of Economic Interests and Conflict-of-Interest Codes



January 2006	Form 700 Available The FPPC provides email notification to agencies when the 2005/2006 Form 700 becomes available. The form was approved at the Commission's December 2005 meeting, and should be available on our website in early January 2006. Hard copies will be mailed only upon request. The Gift, Honoraria, Travel and Loan Fact Sheets have recently been updated and are available on our website. The gift limit of \$360 is in effect through December 31, 2006.
February 1, 2006	Pre-Notification of Annual Form 700 Filing officers should notify filers of their filing obligation no later than February 1, 2006, if the annual Form 700 is due by March 1, 2006.
February 2006	Seminars The FPPC will hold workshops for state and local filing officers that will cover statement of economic interests filing officer duties including how to review statements and to ensure that statements are filed timely. Check our website for dates.
March 1, 2006	Form 700 Filing Deadline See page 12 of this issue for the list of officials required to file by March 1. Pre-Notification for Annual Form 700 Filers Filing officers should notify filers of their filing obligation no later than March 1, 2006, if the annual Form 700 is due by April 1, 2006 ¹ .
March 8, 2006	Deadline for Forwarding March 1 Form 700s to FPPC You can also clear your desk and forward these statements to us before the deadline.
March 10, 2006	Candidate Form 700 Filing Deadline for June 6, 2006, Elections See page 13 of this issue for the list of candidates required to file candidate statements. Please note that if an annual statement has already been filed within 60 days prior to March 10, 2006, a candidate statement is not required. Under certain circumstances, this deadline may be extended, so please confirm this date with your filing officer.
March 15, 2006	Deadline for Forwarding Candidate Form 700s to FPPC Only forward statements for the officials listed on page 12. Be sure to keep copies for your files. If the above deadline was extended, please forward the statements within five days of that date.
April 1, 2006¹	Form 700 Filing Deadline See page 12 of this issue for the list of officials required to file by April 1.
April 10, 2006	Deadline for Forwarding Form 700s Filed by April 3 to FPPC Only forward statements for the officials listed on page 12 of this issue.

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May 3, 2006	State and Local Agencies with 50 or Fewer Form 700 Filers It is recommended that written non-filer notices be sent within 30 days to employees who have not filed an annual Form 700 by April 1.
June 5, 2006	State and Local Agencies with 50 or Fewer Form 700 Filers It is recommended that a "second notice" non-filer letter be sent within 30 days of the first non-filer notice to employees who have not filed an annual Form 700.
July 3, 2006	Local Code Reviewing Body Notification Deadline City and county code reviewing bodies are required to notify each local agency within their jurisdiction to review its conflict-of-interest code and determine if amendments are necessary. <ul style="list-style-type: none">- The City Council is the code reviewing body for city agencies.- The Board of Supervisors is the code reviewing body for county agencies and for other local agencies (special districts) with single county jurisdiction. Check the FPPC website for conflict-of-interest code seminar dates. These seminars will address how to amend a code and ensure that it is properly prepared.
July 3, 2006	State and Local Agencies with 50 or Fewer Form 700 Filers Filing officers refer non-filers who received first and second non-filer notices to the FPPC. See FPPC website for referral notice.
August 3, 2006	State and Local Agencies with More Than 50 Form 700 Filers It is recommended that written non-filer notices be sent within 120 days to employees who have not filed an annual Form 700.
October 1, 2006	Local Agency Biennial Notice Deadline Agencies that notify the code reviewing body that a conflict-of-interest code amendment is necessary must amend their codes within 90 days. Only multi-county agencies must forward their notices to the FPPC. City and county agencies forward their notices to their code reviewing body.
October 3, 2006	State and Local Agencies with More Than 50 Form 700 Filers It is recommended that a "second notice" non-filer letter be sent within 60 days to employees who have not filed an annual Form 700.
November 17, 2006	State and Local Agencies with More Than 50 Form 700 Filers Filing officers refer non-filers who received first and second non-filer notices to the FPPC. See FPPC website for referral notice.
Ongoing	Assuming and Leaving Office Statements Continue to monitor and notify filers who assume or leave office of the Form 700 filing requirements. Forward assuming and leaving office statements for filers listed on page 12 within five days of a filing deadline. Notify the FPPC if you are not successful in obtaining a statement for these filers.

¹ Because April 1, 2006, falls on a Saturday, the filing deadline is extended to April 3, 2006.

Lobbyist Ethics Course Scheduled

California Government Code section 86103 requires lobbyists to attend an ethics orientation course as a condition of registration. The Legislature's ethics committees have scheduled an ethics course **to be conducted in Sacramento on Thursday, February 16, 2006.**

Any lobbyist who has not completed the ethics course requirement for the 2005-2006 legislative session should attend this course. Advance sign-up is required. The course fee is \$25. To obtain a sign-up form for the February 16th course, contact the Senate Legislative Ethics Committee at (916) 651-1507. A sign-up form will be faxed to you. As space is limited, it is recommended that you sign up early.

IMPORTANT:

Any lobbyist who does not complete the required ethics course and fails to comply with the related deadline to file an amended Form 604 certifying his or her ethics completion date is prohibited from acting as a lobbyist in California and may be subject to criminal penalties and substantial fines.

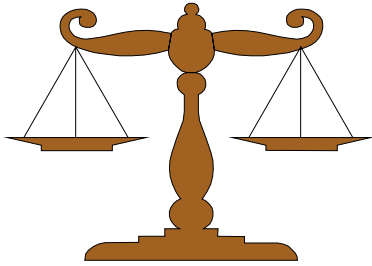
There is no provision for waiver of the ethics requirement or for an extension of the completion deadline; nor is there a provision for an extension of a lobbyist's deadline to certify his/her ethics completion date by filing the required amended Form 604 (Lobbyist Certification Statement) with the office of the Secretary of State (see FPPC Form 604 instructions page). Non-filers are referred to the Fair Political Practices Commission for non-compliance.

**Lobbyists:
The FPPC's toll-free advice line
is also for you.**

**Call
1-866-ASK-FPPC
(1-866-275-3772)**



with your questions about the Political Reform Act and regulations.



Litigation Report

Here is a report on pending litigation prepared for the Commission's December 1, 2005, meeting:

California ProLife Council, Inc. v. Karen Getman et al.

This action challenged the Act's reporting requirements for express ballot measure advocacy. In October 2000 the Federal District Court for the Eastern District of California dismissed certain counts and later granted the FPPC's motion for summary judgment on the remaining counts. Plaintiff appealed, and the Ninth Circuit Court of Appeal affirmed that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. However, the Ninth Circuit remanded the matter back to the district court to determine whether California could in fact establish an interest sufficient to support its committee disclosure rules, and that its disclosure rules are properly tailored to that interest. On February 22, 2005, the court granted defendants' motion for summary judgment on these questions. Plaintiff again appealed. The parties, and amici who have filed two briefs supporting defendants, have now completed the appellate briefing, and expect that the appeal will be heard and decided in mid-2006.

FPPC v. Agua Caliente Band of Cahuilla Indians, et al.

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians con-

tributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions, and likewise failed to disclose more than \$1 million in late contributions made between July 1, 1998, and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. Defendants responded to the lawsuit by filing a motion to quash service, alleging that they could not be civilly prosecuted because of tribal sovereign immunity. On February 27, 2003, the Honorable Loren McMaster of the Sacramento County Superior Court ruled in the FPPC's favor. Defendants filed a petition for writ of mandate in the Third District Court of Appeal, challenging the decision of the trial court. The petition was summarily denied on April 24, 2003, whereupon defendants filed a petition for review in the California Supreme Court. On July 23, 2003, the Supreme Court granted review and transferred the case back to the Court of Appeal. On March 3, 2004, the Court of Appeal affirmed the Superior Court's decision, concluding that "the constitutional right of the State to preserve its republican form of government trumps the common law doctrine of tribal immunity." On April 13, 2004, defendants filed a Petition for Review in the California Supreme Court. On June 23, 2004, the Supreme Court granted the Petition for Review. On September 23, 2004, defendants filed an opening brief with the Supreme Court. The FPPC filed its opposition brief on December 30, 2004, and on April 1, 2005, defendants filed a closing brief. Amicus briefs have been filed by a number of interested parties.

FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria

In this action the FPPC alleges that the Santa Rosa Indian Community of the Santa Rosa Rancheria failed to file major donor semi-annual campaign statements in the years

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...Litigation Report

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1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and propositions, and that defendants failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002, and was amended on October 7, 2002. On January 17, 2003, defendants filed a motion to quash service, based on its claim of tribal sovereign immunity. On May 13, 2003, the Honorable Joe S. Gray of the Sacramento County Superior Court entered an order in favor of defendants. On July 14, 2003, the FPPC appealed this decision to the Third District Court of Appeal, where the matter was scheduled for oral argument. The Attorney General filed an amicus brief in support of the FPPC's position. The court heard oral argument on October 19, 2004, and on October 27, 2004, issued a decision in favor of the Commission overturning the trial court's granting of defendant's motion to quash. The tribe filed a petition for review with California Supreme Court which was granted on January 12, 2005. However, any action on the case has been deferred pending the outcome of the Agua Caliente case.

California Republican Party, et al. v FPPC et al.

On October 12, 2004, the California Republican Party, the California Democratic Party, and the Orange County Republican Party filed a Complaint in the Federal District Court for injunctive and declaratory relief from two provisions of the Act, sections 84503 and 84506, which require a committee paying for ballot measure advertisements to identify their two highest contributors of \$50,000 or more. On October 20, 2004, plaintiffs amended their Complaint, and noticed a motion for Temporary Restraining Order to be heard on October 26, 2004. The FPPC filed its Opposition to this mo-

tion on October 22. The Attorney General's office represented the Commission at the hearing before the Honorable Frank C. Damrell, Jr. The next day, the Court issued a preliminary injunction enjoining the Commission from enforcing the provisions of the Act above against plaintiffs. Magistrate-Judge Peter Nowinski recently conducted two settlement conferences, on April 11 and May 2, 2005. Another settlement conference is scheduled for December 5, 2005.

Citizens to Save California, et al. v. FPPC

On February 8, 2005, Citizens to Save California and Assembly Member Keith Richman filed a Complaint for injunctive and declaratory relief in Sacramento Superior Court challenging the Commission's adoption of regulation 18530.9 in June, 2005, which imposed on candidate-controlled ballot measure committees the contribution limit applied to the controlling candidate. Plaintiffs claim that the regulation violates the First Amendment, and that the Commission lacked statutory authority to adopt the regulation. Another group of plaintiffs led by Governor Schwarzenegger intervened in the action, and the court granted plaintiffs' motion for preliminary injunction, barring FPPC enforcement of regulation 18530.9 pending final disposition of the lawsuit. The Commission appealed, noting that the Superior Court's injunction was stayed while the appeal was pending. On April 25, the Superior Court determined that its injunction remained in effect, and a writ petition challenging this finding in the Court of Appeal was denied. Ruling next on the Commission's demurrer to the complaints, on May 26 Judge Chang indicated that further proceedings in the Superior Court were stayed pending resolution of the Commission's appeal of the preliminary injunction. The Commission's opening brief was filed on November 14, 2005. During these proceedings, TheRestofUs.org filed a lawsuit against the Governor, his California Recovery Team and Citizens to Save California, seeking a declaration that those committees are subject to the candidate contribution limits applicable to the Governor. Defendants filed a motion to dismiss and a motion for preliminary injunction,

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...Litigation Report

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which were denied by Judge Chang on August 11, 2005. The Commission is not a party to this action.

FPPC v. Democratic National Committee, Non-federal-Corporate et al.

In a lawsuit filed in the Sacramento Superior Court on February 25, 2005, the FPPC alleges that a California campaign committee sponsored by the national Democratic Party committee, and the treasurers of that committee, failed to file a campaign statement disclosing \$1.2 million in contributions to the California Democratic Party. Defendants filed an answer to the complaint, and a cross-complaint against the FPPC seeking declaratory and injunctive relief. The cross-complaint alleges that Government Code section 83115.5 requires the FPPC to hold a probable cause conference prior to instituting a civil enforcement action against a prospective defendant. The cross-complaint also alleges that FPPC regulation 18361.8, which defendants interpret as eliminating the procedures for bringing a civil action, violates a respondent's right to due process. On May 5, 2005, the Commission filed a demurrer to the cross-complaint, which was affirmed without leave to amend at hearing on June 23, when the court concluded that due process did not require a probable cause conference prior to commencement of a civil action, nor any other proceedings beyond the protections afforded to all litigants. On July 7, 2005, the court issued its final order in the matter, dismissing the cross-complaint.

On September 2, 2005, DNC sought a stay before the Superior Court based upon an anticipated appeal of the dismissal of its cross-complaint, which the court denied the same day. On September 8, 2005, DNC filed its notice of appeal, and on September 16, 2005, the FPPC filed a motion to dismiss the appeal. On September 15, 2005, the court sent the matter

to non-binding arbitration which is scheduled for December 15, 2005. On October 7, 2005, the Court of Appeal granted the FPPC's motion to dismiss DNC's appeal. Discovery is proceeding.

Professional Engineers in California Government (PECG), et al. v. Secretary of State, et al.

On August 2, 2005, plaintiffs served the FPPC and others with a writ of mandate and a complaint for declaratory filed in Sacramento Superior court. The primary purpose of the suit was to secure an injunction barring the Secretary of State and the State Printer from including a version of Proposition 75 in the voters' ballot pamphlet which differed from the written version circulated while gathering signatures to qualify the initiative for the November 8, 2005, ballot. The text of Proposition 75, which would prohibit the use of public employees' union dues for political contributions without individual employees' prior consent, was to be delivered to the State Printer on August 15, 2005. The FPPC was named as a defendant because the proposed initiative would affect the Act if passed. On August 12, 2005, the Hon. Gail Ohanesian denied plaintiffs' request for injunctive and declaratory relief as to all parties and all causes of action.

On October 11, 2005, PECG filed a notice of appeal from the judgment denying its petition for writ of mandate.

**Fair Political Practices
Commission
Toll-free Advice Line:
1-866-ASK-FPPC
(1-866-275-3772)**

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I." Letters are summarized by subject matter and month issued.

Campaign

Stacey Fulhorst
City of San Diego
Dated: October 28, 2005
File Number A-05-161

A city ethics agency is given advice concerning the filing requirements imposed on political party committees that make payments for member communications supporting local candidates.

The letter discusses the duty to file Supplemental Independent Expenditure Reports, Supplemental Pre-election Statements, Late Independent Expenditure Reports, Late Contribution Reports, and the content of those reports and statements.

Stephanie Mizuno
City of Sacramento
Dated: October 24, 2005
File Number I-05-200

Where a city's post-election statement covers the period of May 21, 2006, through June 30, 2006, which is the same period covered by the semi-annual statement, a city's post-election statement due by July 5, 2006 (prior to the July 31, 2006, due date for the semi-annual statement), satisfies both filing requirements. However, a later filing would not violate the Act's filing deadline if done by July 31, 2006.

Nancy Valderrama
City of Rosemead
Dated: October 21, 2005
File Number A-05-206

A city clerk is advised that candidates and committees involved in a city recall election to be held on February 7, 2006, may file a combined second pre-election and semi-annual statement. The statement will cover the period December 25, 2005, through January 21, 2006, and be due on January 26, 2006.

Irene S. Dick-Endrizzi
Ross Mirkarimi for Supervisor
Dated: September 1, 2005
File Number A-05-177

A local officeholder may use funds raised for his last election to pay for costs associated with events that are reasonably related to a political, legislative, or governmental purpose. The officeholder asks specifically whether hosting art shows held in his government office would meet this definition. It appears that food, drink, and other incidentals associated with hosting these events have a political purpose.

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Steve Mele
ML Associates LLC
Dated: September 23, 2005
File Number A-05-184

An Assembly member's committee for election in 2004 carried over its funds to a 2006 reelection committee, and terminated. Subsequently, the committee was informed that it received a contribution in 2004 that was over the limits. In order for the candidate to return the excessive contribution, the Assembly member may request to reopen the 2004 committee. If reopening is approved, the Assembly member may open a new bank account, transfer funds with attribution from the 2006 committee to the 2004 committee, return the contribution to the contributor, and then terminate the 2004 committee.

Jolene Elliot
Municipal Records Clerk
Dated: September 9, 2005
File Number A-05-185

A city clerk establishes a filing schedule that combines the second pre-election filing with the semi-annual filing for a city election scheduled to be held in early January of 2006.

David Reid
Greenbelt Alliance
Dated: September 27, 2005
File Number A-05-191

A city council member is advised he may act as the assistant treasurer of a general purpose ballot measure committee. As long as the committee does not support or oppose candidates, there are no restrictions on his involvement with the committee.

Christopher J. Raymer
State Controller
Dated: August 9, 2005
File Number A-05-146

An elected state officer is advised he may raise funds into two different committees for two different offices in future elections.

Gijai Rosen
City of Los Osos
Dated: August 18, 2005
File Number A-05-145

A representative for a committee supporting both the recall of three officeholders and the elections of three replacement candidates is advised that the committee is a general purpose committee. The committee was also given advice regarding whether the committee's expenditures supporting the three replacement candidates would be contributions or independent expenditures. The letter also contains some discussion regarding when a candidate is considered to be controlling a committee.

Kelli Medina
Friends of Juan Vargas
Dated: August 9, 2005
File Number A-05-150

The prohibition against lobbyist contributions to a candidate for state office or state officeholder does not apply to contributions made by a registered lobbyist to a state legislator's campaign for federal office.

Elaine A. Miles
County of Sutter
Dated: August 30, 2005
File Number A-05-162

The Sutter County Taxpayers Association (SCTPA) is raising funds to help defray legal costs incurred by the elected county auditor-controller and his assistant who have been accused of malfeasance/misfeasance of office. The payments received and made by SCTPA on behalf of the elected auditor-controller are contributions, resulting in SCTPA qualifying as a recipient committee under the Act. Payments made on behalf of the auditor-controller's assistant are gifts to her.

John F. Tavaglione
County of Riverside
Dated: August 25, 2005
File Number A-05-166

A county supervisor may use campaign funds to supplement the salary of his chief deputy,

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and a county employee, because the chief deputy performs duties that have a governmental purpose.

Conflicts of Interest

John McCowen

City of Ukiah

Dated: October 5, 2005

File Number A-05-179

A city council member, who owns several properties in areas affected by several government decisions is advised he may not participate in the decisions which involve: (1) an urgency ordinance imposing a moratorium on “formula businesses” in the city’s downtown area, (2) the development of a “form-based” approach to zoning for the downtown area, and (3) an implementation plan that identifies redevelopment agency activities and projects to be considered during the next five years. Because the council member owns property within the boundaries (or the proposed boundaries), or within 500 feet of the areas which are the subject of the governmental decision, it is presumed that the financial effect of the governmental decision on his properties is material. Therefore, unless this presumption is rebutted or an exception applies, he is disqualified from participating in the above decisions if it is reasonably foreseeable that the governmental decision will have *any* financial effect – even a penny’s worth – on his real property.

Lynn Tracy Nerland

City of Pleasanton

Dated: October 11, 2005

File Number I-05-190

A city council member employed by a consulting firm that is paid to assist public utilities with grant administration may be disqualified from city council decisions regarding the city’s application for or acceptance of grants, whenever such decisions would have a reasonably foreseeable material financial effect on the consulting firm.

John R. Harper

Harper & Burns LLP

Dated: October 26, 2005

File Number A-05-199

Two members of a city council have been sued in their individual capacities by a developer, and are paying defense costs from personal funds. Because the developer states that it will dismiss the action if its projects are approved by the city council, the defendant officials are disqualified from taking part in governmental decisions relating to these projects since it is reasonably foreseeable that the outcome of these decisions will have a material, personal financial effect on them.

Daniel J. McHugh

City of Redlands

Dated: September 28, 2005

File Number A-05-144

A planning commissioner has a month-to-month lease of airport property on which she has purchased a hanger. The planning commissioner may participate in consideration of amendments to the city’s Airport Master Plan, Airport Land Use Compatibility Plan, and zoning changes and new subdivisions near the airport so long as the financial effect of the decision on the commissioner’s personal finances is less than \$250 in a 12-month period.

Rob Strong

City of Arroyo Grande

Dated: September 1, 2005

File Number A-05-154

Though the Act’s conflict-of-interest rules prohibit a city’s redevelopment director – who possesses an option to purchase real property within his city’s development project – from making, participating in, or attempting to influence decisions about the project, the Act does not preclude him from appearing before the city council regarding the project to represent his personal interests. He must avoid giving the impression that he is either speaking in the interest of another (other than his immediate family) or that he is acting in any official capacity.

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Stephen P. Pfahler
City of South Pasadena
Dated: September 6, 2005
File Number I-05-156

A city council member is advised as to potential conflicts of interest in participating in a governmental decision regarding approval of a development involving several parcels of property owned by his ex-wife where he receives compensation from her plumbing business and he is an officer in that business.

Douglas H. Calkins
City of San Bernardino
Dated: September 6, 2005
File Number A-05-164

A city council member is advised that he may not participate in decisions involving the financing and proposed formation of an underground utility district which requires the council member's employer to relocate above ground facilities that it owns. It is presumed that the material effect of the governmental decision on the council member's employer is material. Therefore, unless rebutted, he is presumed to have a conflict of interest and may not participate in the decision.

Barbara Booth Grunwald
County of Fresno
Dated: September 6, 2005
File Number A-05-171

The Act's conflict-of-interest rules do not prohibit a county supervisor, in her capacity as a member of a county commission, from participating in a governmental decision relating to a \$5,000 grant to a private, non-profit school on whose board of directors she sits and at which her daughter is a student, because there is no personal financial effect on the public official.

David K. Thomas
Caltrans
Dated: August 2, 2005
File Number A-05-106

A former state employee is advised that if an employee of his former agency is involved in

decisions of a consultant selection panel, the former employee's appearance before the panel – either in person or in materials submitted by the new employer to the panel – would be prohibited for one year after leaving state service.

Alona Clifton
Peralta Community College District
Dated: August 11, 2005
File Number A-05-119

A council member has an economic interest in a nonprofit for which she serves as a board member and receives reimbursements. Thus, the official must disqualify herself from any decision that will have a foreseeable material financial effect on the nonprofit. However, she will not have an interest in a donor to the nonprofit. Further, campaign contributors are not disqualifying for members of local government agencies whose members are directly elected by the voters. Thus, section 84308 would not apply to the council member.

Terence R. Boga
City of Westlake Village
Dated: August 31, 2005
File Number A-05-142

A member of a city council has a potential conflict of interest in participating in a governmental decision regarding the city's consideration of a general plan amendment where the official owns a business whose sole asset is an office building, and it is reasonably foreseeable that the value of the building will be materially affected by the governmental decision.

Glen S. Matuoka
California Department of Technology Services
Dated: August 16, 2005
File Number I-05-148

In the case of a newly-created agency (California Department of Technology Services) consolidating the functions of one or more abolished agencies or departments, non-board member public officials of an old entity, whose job functions have not materially changed, may continue filing annual statements of economic interests under the old conflict of interest code.

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This is because the legislation creating the new agency provides that the power and responsibilities of the predecessor entities are vested in the new agency. However, members of the new agency's governing board are required to file new, full-disclosure statements under section 87302.6.

Jennifer K. McCain
City of Escondido
Dated: August 23, 2005
File Number A-05-151

A city attorney sought advice as to whether a conflict interest would result if a city council member participated in decisions involving the relocation of a local hospital when the official owned two rental properties located approximately 750 feet from the site. Because the council member's properties are located more than 500 feet from the boundaries of the proposed relocation of the hospital, it is presumed that the governmental decision will *not* have a reasonably foreseeably material financial effect on his properties. However, this presumption may be rebutted if specific circumstances make it reasonably foreseeable that the decision will result in a material financial effect on the real properties.

Andrew Hinkle
California Highway Patrol
Dated: August 17, 2005
File Number I-05-153

An employee of a state agency is exploring computer consulting opportunities with the State of California as a private contractor. This letter provides general assistance regarding potential conflict-of-interest issues.

Gift Limits

Michael N. Villines
California Legislature
Dated: October 18, 2005
File Number I-05-201

A tour of the Delta for Legislators will be considered "information material" so long as it serves primarily to convey information and is not a reportable gift. However, any other

benefits, such as food or drinks that are provided in connection with the tour are considered reportable gifts to the extent that they equal \$50 or more.

Howard Weinberg
New Motor Vehicle Board
Dated: September 13, 2005
File Number A-05-167

Subject to the gift limits, members of a state board may accept air travel on a private aircraft for a retirement reception. The officials must report the amount of the air travel as gifts on their Statement of Economic Interests ("Form 700s"). To determine the value of the gift, the board members may use the current fair market value of the flight to Sacramento or the cost of charter airfare divided by the number of passengers.

Marian E. Moe
Department of Justice
Dated: September 13, 2005
File Number A-05-176

A member of a state board may accept a \$10,000 community leadership award. Under the facts presented, the award is a "bona fide competition" not related to the official's status, and therefore falls under the exception to the Act's gift limit under regulation 18946.5.

Honoraria

Carol J. Monahan
Office of Environmental Health Hazard Assessment
Dated: September 26, 2005
File Number A-05-172

An official appointed to a state board agreed to participate and did participate in a conference prior to her appointment to a state board. The sponsor of the conference agreed to pay a \$2,500 honorarium and reasonable travel expenses, which the official did not receive until after the date she assumed office. The letter advises that she is not prohibited from accepting the honorarium because she accepted the payment prior to her appointment.

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Mass Mailing

Michael R.W. Houston
Rutan & Tucker LLP
Dated: September 8, 2005
File Number I-05-183

The Act's prohibitions against mass mailings at public expense apply if an elected official places an advertisement in a city newsletter if the advertisement includes the official's business name or website address (which includes the official's name), and if it meets the other mass mailing requirements in regulation 18901(a).

Revolving Door

Thomas V. Speer
Department of Water Resources
Dated: October 12, 2005
File Number I-05-128

A retired state employee may not, for a period of one year after the date that he left his former agency, engage in any communications with his former agency, on behalf of any person, unless an exception applies, for the purpose of influencing any of his former agency's legislative or administrative actions, or influencing specified proceedings. In addition, he at no time may participate on behalf of any person except another state department, or aid anyone except another state department participating in any proceeding in which the State of California is a party or has a direct and substantial interest, including a contract proceeding, if he personally and substantially participated in that same proceeding while employed by his former agency.

Walter Bakke
Employment Development Department
Dated: October 5, 2005
File Number I-05-197

General discussion of the revolving door restrictions of the Act as they apply to a former state agency supervisor. The former state employee is being offered a private sector consultant position to develop legislation.

Craig M. Wilson
State Water Resources Control Board
Dated: October 12, 2005
File Number A-05-181

This letter advised a former general counsel of a state water agency on the application of the revolving door post-governmental employment rules. The letter discusses whether the former official may appear before regional water agencies and the meaning of "administrative action" and "appearance" in the context of meetings with local and former agency officials.

Steven L. Keel
Caltrans
Dated: August 2, 2005
File Number I-05-140

A former deputy district director for a state agency is provided general advice concerning the Act's post-governmental employment restrictions as they relate to his employment activities with a private employer that has contracts with the county and a local transportation agency.

Statements of Economic Interests

Doug Cordiner
California Bureau of State Audits
Dated: August 3, 2005
File Number G-05-118

The Bureau of State Audits is provided with general information concerning the applicability of statements of economic interests filing requirements to retired annuitants serving in designated positions with a state agency.

Howard Weinberg
New Motor Vehicle Board
Dated: August 16, 2005
File Number I-05-147

Leaving and assuming office statements need not be filed by board members who are reappointed to a new term while serving during a holdover period after an expired term.

